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IN THE SEVENTH DISTRICT COURT

IN AND FOR EMERY COUNTY, STATE OF UTAH

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CO-OP MINING COMPANY, :
Petitioner/Appellant: MOTION FOR EX PARTE ORDER
vs. :
DIVISION OF OIL, GAS AND :
MINING, : CASE NO. 45.34
Respondent. :

COMES NOW the petitioner, by and through its attorney, Kenneth L. Rothey, and hereby moves this court for the entry of an order to be issued ex parte suspending that certain order issued by the board of the Division of Oil, Gas and Mining, Department of Natural Resources, State of Utah on the 31st day of July, 1984 during the pendency of this appeal, and for an order directing the division to appear before this court at a date and time certain to show cause why such suspension should not remain in effect during the pendency of this appeal. This motion is based upon the petition which is on file with this court and upon the affidavit of Mr. Wendall Owen, Operations Officer for the petitioner, which clearly establishes that irreparable injury will result to the petitioner, to petitioner's employees, and to the economy of the county of Emery and to

the State of Utah unless an ex parte order is issued.

DATED this 3/day of July, 1984.



Kenneth L. Rothey
Attorney for Petitioner

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Petitioner/Appellant: AFFIDAVIT

vs. :

DIVISION OF OIL, GAS AND
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CASE NO. _____

Respondent. :

State of Utah)
 : ss
County of)

WENDALL OWEN, after first being duly sworn, under
oath, deposes and states as follows:

1. I am the Operations Officer for the petitioner
herein.

2. Since June, 1980 petitioner has been operating
its Bear Canyon Mine in Emery County, Utah under a valid
permit issued by the Department of Natural Resources and its
Divison of Oil, Gas and Mining.

3. In May, 1984 the division filed a petition with
its board asking for the suspension of said permit for the
reason that petitoner's application for a permanent mining
and reclamation plan as provided by the statutes and
regulations of the State of Utah had been determined to be

incomplete.

4. At the time said petition was filed, no action had been taken by the division or any of its inspectors to suspend the mining operations of the petitioner for substantially failing to perform reclamation or conduct mining operations in accordance with said plan; the petitioner had in fact provided and is still maintaining the surety as required pursuant with said interim permit and the provisions of Section 40-8-13 Utah Code Annotated; and the mining operations of the petitioner had not been shut down for a period in excess of two years, all as provided in the provisions of Utah Code Annotated 40-8-16.

5. Petitioner presently employes in excess of 30 employees and is annually mining, processing and selling in the State of Utah approximately 250,000 tons of low sulfur coal.

6. Petitioner's method of mining is a standard room and pillar system.

7. Suspension of said mine will cause petitioner to lose all or substantially all of its customers, will cause it to lose the services of its employees, and will substantially increase the risk to life and property attendant to a suspended room and pillar mining operation, all of which will cause the petitioner to suffer irreparable and irremediable injury.

8. Petitioner filed its application for a permanent mining and reclamation plan approval with the Division of